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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,257	02/14/2001	Syuuji Matsuura	0033-0692P	9932
2292	7590	06/11/2007	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			RAMAN, USHA	
PO BOX 747			ART UNIT	PAPER NUMBER
FALLS CHURCH, VA 22040-0747			2623	
NOTIFICATION DATE		DELIVERY MODE		
06/11/2007		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[mailroom@bskb.com](mailto:mailroom@bskb.com)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/782,257	MATSUURA, SYUJI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Usha Raman	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 November 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 9-16 is/are rejected.
- 7) Claim(s) 6-8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

***Response to Arguments***

1. Applicant's arguments filed March 10<sup>th</sup>, 2006 have been fully considered but they are not persuasive.

Applicant's arguments, see pages 3-4, filed November 28<sup>th</sup>, 2006, with respect to the rejection(s) of claim(s) 9 under Kral have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Strammello.

2. Applicant's arguments with respect to claim 1, stating that the, "the low pass filter 51 would be inoperable for at least one of the modes of the dual mode oscillator because it is clearly based upon a fixed oscillator and not a dual mode type" have been considered but are not persuasive. Applicant appears to be suggesting that Matsuura discloses that the low pass filter is controlled by the oscillator, and therefore inoperable for at least one of the modes of the dual type oscillator. The examiner however respectfully disagrees, since Matsuura appears to be suggesting that the low pass filter is there to remove the effects of leakage from the local oscillation circuit (see [0032]), thereby preventing aliasing of the signal. Reutz further discloses that both the first mode and the second mode maintain oscillation of the crystal; as such leakage from the oscillation circuit is still possible in the modified circuit. Therefore, even with an implementation of a dual mode oscillator, a low pass filter is operable to eliminate aliasing of signals due to oscillation circuit leakage.

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3. Examiner additionally notes that applicant did not traverse examiner's assertion of Official Notices of claims 3, 10 and 14. As such, the common knowledge is taken to be admitted prior art, since the applicant failed to traverse the examiner's assertion of Official notice.

***Allowable Subject Matter***

4. Claims 6-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura (JP 11127211 A) in view of Ruetz (US Pat. 5,155,453).

Regarding claim 1, Matsuura discloses cable modem tuner, comprising: a tuner circuit (3-14 and 18-23) taking and amplifying a signal (via amplifiers 6, 7 and 8) corresponding to a reception channel from input signals, and converting to an intermediate frequency signal of a first frequency band (via mixers 9, 11 and 13); and a "down converter" circuit (47 and 58) receiving the intermediate frequency signal of said first frequency band from said tuner circuit, and selectively outputting an intermediate frequency signal of said first frequency

band (output 15) or a second frequency band lower than said first frequency band (output 35), a mixer circuit (49) for mixing the intermediate frequency signals of said first frequency band input (output of amplifier 48) to said down converter circuit with an output of said local oscillation circuit (50), and a filter circuit (51) receiving an output signal from said mixer circuit and passing a signal of a frequency corresponding to a set cut off frequency. See [0028], [0031], [0032] and figure 1 of Matsuura.

Matsuura does not specifically disclose that the down converter circuit comprises a local oscillation circuit for generating an oscillation signal corresponding to said second frequency band in a first mode in which the intermediate frequency signal of said second frequency band is output, and stopping generation of said oscillation signal in a second mode in which the intermediate frequency signal of said first frequency band is output.

Ruetz discloses an oscillator means with dual output modes, that is controlled by an external control means, such that the oscillator generates an oscillating output signals in a first, "normal" mode of operation and stops generating an oscillating output signal in a second "sleep" mode. See abstract and column 1, lines 37-41.

It would have been obvious to modify the down-converter means of Matsuura by using a dual-mode oscillator as taught by Reutz, in order to allow the mixer circuit to output a second frequency band (i.e. down-convert the first IF signal to a second frequency band) when the oscillator is in a first "normal" mode

and allow the mixer circuit to output a the signal at a first frequency band when the oscillator is in a second “sleep” mode thereby allowing circuit 47 to be integral to circuit 58. It would further be obvious to select the parameters for the low pass filter (51) such that it passes the first and second frequency bands, so that the desired output signals are passed while attenuating the undesired signal characteristics. The modified circuit is thereby operative to output an intermediate frequency signal of second frequency band in the first mode (i.e. when the oscillator outputs oscillation signals) and output intermediate frequency of first frequency in the second mode (when oscillator produces no oscillation signals).

In regards to claim 2, the modified cable modem circuit comprises a tuner circuit including a first automatic gain control circuit (input 16 adjusting amplifiers 6-8) for adjusting amplitude of a signal corresponding to said reception channel to a prescribed level, said tuner further comprising a second automatic gain control circuit (input 17 adjusting amplifier 48) provided between said tuner circuit and said down converter circuit, for adjusting amplitude of the intermediate frequency signal of said first frequency band to a prescribed level. See [0028] and [0031] and figure 1 in Matsuura.

In regards to claim 3, the modified system does not disclose that the total gain attained by said first and second automatic gain control circuits is at least 55 dB. Examiner takes official notice that the AGC circuit can provide a gain of at least 55 dB as adjusted by the AGC input of the amplifier. It would have been

obvious to one of ordinary skill in the art at the time of the invention to modify the system so that the gain of the AGC can be adjusted to output at least 55 dB, in order to provide a the signal at a strength required by the QAM demodulator circuit.

In regards to claim 4, the modified system comprises means for converting a non-parallel signal into a parallel signal (i.e. converting into I and Q signals) by using a phase shifter (56). See [0049]-[0052] and figure 11 in Matsuura.

In regards to claim 5, the second mode signal output comprises an amplified IF signal amplified in 48.

In regards to claim 13, the modified cable modem circuit comprises an upstream circuit (40) for transmitting a data signal to a cable television station; and a high pass filter (2) for introducing a multi wave down signal from said cable television station while removing said data signal. See [0022] in Matsuura.

In regards to claim 14, the examiner takes official notice that the DOCSIS standards require an upstream signal to be transmitted at minimum prescribed signal strength from the cable modem. Therefore, it would have been obvious to modify the system to include an AGC in the upstream circuit, in order to enable transmission of upstream signal at a minimum signal strength, in order to transmit signals at a signal level prescribed under DOCSIS standards.

In regards to claim 15, the modified system comprises receiving circuit including a branching circuit (input selection circuit 18-20 for selecting between UHF, high VHF and low VHF bands) branching and outputting said down data signal upon receiving a down data signal of a band different from said multi wave down signal from CATV station through a cable. See [0022] in Matsuura.

In regards to claim 16, the modified system comprises upstream circuit (40 contained in 60), tuner (3-14 and 18-23 contained in 62-67 and 69), high pass filter (2 contained in 61) and down converter (47, 58 contained in 68 and 70) contained in a shield case partitioned individually. See fig. 2 and [0036]-[0037].

7. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuura (JP 11127211 A) in view of Ruetz (US Pat. 5,155,453) as applied to claim 1 above, and further in view of Strammello (US Pat 4,499,495).

In regards to claim 9, the modified system does not comprise a filter where the cut off frequency is set such that signal of the second frequency band is passed and the signal of said first frequency band is attenuated in said first mode, and the signal of said first and second frequency bands are passed in said second mode.

In a similar field of endeavor, Strammello discloses the teaching of utilizing a switchable low-pass filter for passing a frequency having a cutoff  $f_c'$  to an output terminal in one mode and a second mode having a cutoff  $f_c$  higher than  $f_c'$ . See column 4, lines 40-50 and see figure 5. Strammello therefore teaches the step of attenuating frequency greater than  $f_c'$  in the first mode and passing all frequencies less than  $f_c$  (therefore frequencies of first and second bands) in the second mode.

It would have been obvious to one of ordinary skill to apply the teachings of Strammello to the modified system by utilizing a switchable low pass filter so that signals of the first frequency band are attenuated in a first mode, and passing both the first and second frequency band in the second mode, thereby removing any aliasing of the signal occurring between the first and second frequency bands during the first mode.

In regards to claim 10, the modified system does not comprise a filter circuit with a switch, first inductor and capacitor in parallel and a second capacitor coupled between a first inductor and ground. However, Strammello discloses the step of utilizing a switch for changing the impedance characteristics of the low pass filter in order to switch between the two cutoff frequencies.

Examiner takes official notice that various types of low pass filter designs are well known in the art providing various desired output characteristics, including a low pass filter comprising the structure of a first inductor in parallel with a second capacitor and a first capacitor coupled between the first inductor and a ground node were well known in the art at the time of the invention.

It would have been obvious to one of ordinary skill in the art to further modify the system by using a low pass filter comprising an inductor in parallel with a capacitor and a second capacitor coupled between the inductor and ground node, and using a switch in parallel with the inductor to change impedance of filter, thereby achieving the desired cutoff frequency.

In regards to claim 11, the system of Matsuura in view of Ruetz comprises a tuner circuit including a first automatic gain control circuit (input 16 adjusting amplifiers 6-8, see Matsuura, figure 1) for adjusting amplitude of a signal corresponding to said reception channel to a prescribed level, said tuner further comprising a second automatic gain control circuit (input 17 adjusting amplifier 48) provided between said tuner circuit and said down converter circuit, for adjusting amplitude of the intermediate frequency signal of said first frequency band to a prescribed level. See [0028] and [0031] in Matsuura. The modified system further comprises means for converting a non-parallel signal into a parallel signal (i.e. converting into I and Q signals) by using a phase shifter (56). See [0049]-[0052] and figure 11 in Matsuura.

The modified system comprises a filter (51) for passing a signal corresponding to a set cut off frequency, but does not comprise a cut off frequency set such that signal of the second frequency band is passed and the signal of said first frequency band is attenuated in said first mode, and the signal of said first and second frequency bands are passed in said second mode.

In a similar field of endeavor, Strammello discloses the teaching of utilizing a switchable low-pass filter for passing a frequency having a cutoff  $fc'$  to an output terminal in one mode and a second mode having a cutoff  $fc$  higher than  $fc'$ . See column 4, lines 40-50 and see figure 5. Strammello therefore teaches the step of attenuating frequency greater than  $fc'$  in the first mode and passing all frequencies less than  $fc$  (therefore frequencies of first and second bands) in the second mode.

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It would have been obvious to one of ordinary skill to apply the teachings of Strammello to the modified system by utilizing a switchable low pass filter so that signals of the first frequency band are attenuated in a first mode, and passing both the first and second frequency band in the second mode, thereby removing any aliasing of the signal occurring between the first and second frequency bands during the first mode.

In regards to claim 12, the modified cable modem circuit houses the tuner circuit, the intermediate frequency AGC circuit, the down-converter and the signal converting circuit in one box. See Matsuura [0034] and [0059].

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

UR



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